

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A&E TELEVISION NETWORKS, LLC, a
Delaware limited liability company; and D&D
TELEVISION PRODUCTIONS, INC., a New
York Corporation,

Plaintiffs,

-against-

PIVOT POINT ENTERTAINMENT, LLC, a
California limited liability company; DUANE
CHAPMAN, an individual; and ALICE
BARMORE-SMITH CHAPMAN, an
individual,

Defendants.

AND RELATED COUNTERCLAIMS AND
CROSS-CLAIMS.

10-CV 9422-AJN

**NOTICE OF MOTION AND
MOTION BY PIVOT POINT
ENTERTAINMENT, LLC FOR
SUMMARY JUDGMENT OR
PARTIAL SUMMARY JUDGMENT
AGAINST DUANE "DOG"
CHAPMAN AND BETH CHAPMAN**

[Proposed Order Annexed]

Action Filed: December 17, 2010

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant/Counter-Claimant/Cross-Defendant Pivot Point Entertainment, LLC ("Pivot") hereby moves the Court for Summary Judgment and/or Partial Summary Judgment under Federal Rule of Civil Procedure 56 on its First and Fourth Counterclaims in this interpleader action against Defendants/Counter-Defendants/Counterclaimants Duane "Dog" Chapman ("Dog") and Beth Chapman ("Beth") (Dog and Beth, collectively, the "Chapmans"), and on the Three Claims in the Cross-Claims of the Chapmans, including an adjudication and declaration:

1. The Chapmans are entitled to no portion of the funds deposited into the Court registry, or otherwise to be paid under the Co-Executive Producer Agreement, as amended,

(presently) between A&E Television Networks, LLC (“AETN”), D&D Television Productions, Inc. (“D&D”), and Pivot (“COEP Agreement”);

2. Pivot alone is entitled to all amounts due under the COEP Agreement, including the funds the Court determines are due or payable by AETN or D&D (“Stake”);

3. The Chapmans are entitled to no relief under their Cross-Claims, and Claim for Relief therein should be dismissed;

4. The Chapmans are entitled to no part of the Stake;

5. The Chapmans have no rights under the COEP Agreement;

6. The Chapmans are not parties to the COEP Agreement;

7. The Chapmans are not intended third- party beneficiaries to the COEP Agreement;

8. No contract or relationship between Dog or Beth, on the one hand, and Pivot, on the other hand, gives rise to any fiduciary duty upon which either of the Chapmans can make a claim against Pivot, or entitling either of them to any part of the Stake;

9. No relationship between Dog or Beth, on the one hand, and Krutonog (who is not a party to this action), on the other hand, gives rise to any fiduciary duty upon which either of the Chapmans can make a claim against Pivot, or otherwise, entitling either of the Chapmans to any part of the Stake;

10. The Chapmans have no standing in this action to assert an affirmative claim of illegality regarding the COEP Agreement, and accordingly, no claim to the Stake or to any relief against Pivot entitling either of them to any part of the Stake; and

11. There is no evidence that the Chapmans have suffered damages.

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This motion is based upon this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the annexed declarations of Boris Krutonog and Howard E. King, both dated July 13, 2012, and the documents annexed thereto, Pivot's accompanying Local Civil Rule 56.1 Statement, the records and files herein, and all other pleadings and proceedings in this action, and upon such other further documentary and testimonial evidence and argument as hereafter may be presented to the Court in connection with hearing or consideration of the subject motion.

This motion is made following the March 23, 2012 pre-filing conference with the Court granting leave to file this Motion, and the Court's Orders pertaining thereto, dated April 29, 2012 (Dkt. No. 99) and April 19, 2012 (Dkt. No. 101).

This Motion is based upon the grounds that there are no genuine issues of material fact which weigh against granting such summary judgment.

A copy of Pivot's Proposed Order is annexed hereto.

DATED: June 13, 2012

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